

REMARKS

Claims 1-6, 9-11 and 18-19, as amended, appear in this application for the Examiner's review and consideration. Claims 7, 8 and 12-17 have been canceled from consideration with the present application without prejudice to pursue the subject matter of these claims in one or more continuation or divisional applications. Claims 1 and 18 have been amended to clarify the scope of protection sought by the present application. In particular, claim 1 has been amended to include the recitations that the pre-folded flower wrap includes a folded sheet of material, that the folding sequence includes a first fold that overlaps the sheet of material and subsequent folds that form the overlapped sheet of material into the predetermined sheet of material that includes multiple layers having an appearance of multiple overlapping layers and that the pre-determined folded shape also includes the functionality of a flower sleeve to facilitate placement of the floral arrangement within the multiple layers without having to wrap the layers around the floral arrangement. Support for this amendment can be found, for example, in the specification, claims and drawings as originally filed including Figs. 2 and 3, claims 1 and 8 and the specification at page 4, lines 11-12, page 5, lines 2-3 and page 6, lines 10 and 22-25. Claim 18 has been amended to recite that the pre-folded flower wrap includes a folded sheet and that the markings produce translucent areas and transparent areas in the sheet of material such that the folding sequence overlaps the sheet of material and the markings to align the transparent areas and translucent areas to produce a pre-determined folded shape having a selected appearance comprising a generally translucent inner wrap surrounded by a generally transparent outer wrap, each wrap having been wrapped by hand when the sheet is in the folded position. Support for this amendment can be found in the specification, claims and drawings as originally filed including, for example, at Fig. 1 and the specification at page 6, lines 22-25. As these claim amendments do not introduce any new matter, their entry at this time is warranted.

Applicant acknowledges and appreciates Examiner's withdraw of the previous Office Action in response to Applicant's request for reconsideration of December 24, 2005. In addition, Applicant appreciates the courtesies extended to Applicant's representative during a telephone interview on May 5, 2006.

Claims 1, 3-6, 8-10, 12-13, 15, 17 and 18-19 were rejected under 35 U.S.C. § 102(a) and (e) as being anticipated by U.S. patent no. 6,786,003 to Gilbert for the reasons given in paragraph 3 of the Office Action. It was asserted that Gilbert discloses a sheet of material that

has intersecting score lines 150, 152, 188, 182, etc. defining a folding sequence (i.e. the sheet is wrapped about itself aligning the various lines; see figures 8-11) corresponding to a pre-determined shape (conical) with a plurality of peaked sections 132 along said lines for the wrap which comprises an overlapping portion capable of being used as a flower sleeve an appearance of being wrapped by hand. Applicant traverses this rejection for the reasons that follow.

Gilbert is directed to a multi-layer sleeve made from two inner layers and two outer layers (col. 3, lines 60-61). All the layers of the sleeve are fed from rolls into a machine that used hot dies to cut through the layers and weld the sleeve edges together (col. 2, lines 9-12). These edges are designated as 26 and 28 in Fig. 3. By contrast as currently recited in claims 1 and 18, the independent claims, the pre-folded flower wrap of the present invention includes a folded sheet. The sleeve of Gilbert is not a folded sheet, but a multi-layered sheet made from rolls of four separate sheets that are welded together along the edges (Fig. 16).

In addition as currently recited in claim 1, the flower wrap of the present invention includes a distinct folding sequence that includes a first fold that overlaps the sheet of material and subsequent folds that form the overlapped sheet of material into the pre-determined folded shape that includes an overlapping portion, a plurality of peaked sections and multiple layers that provide an appearance of multiple overlapping layers having been wrapped by hand around a floral arrangement. The pre-determined folded shape provides the functionality of a flower sleeve to facilitate placement of the floral arrangement within the multiple layers without having to wrap the layers around the floral arrangement. Gilbert is not a wrapped product, but is in fact a flower sleeve. The product of Gilbert has the typical funnel or Y-shaped appearance of a flower sleeve with the associated aesthetic appearance. There is no teaching or disclosure in Gilbert regarding any type of folding sequence and in particular a folding sequence having a first fold and subsequent folds as currently recited in claim 1.

With regard to the assertion of intersecting score lines 150, 152, 188, 182, etc. defining a folding sequence, Applicant notes that these lines as explained in the specification of Gilbert relate to the top edges of the inner and outer walls (150, 152) of the various layers, the top edge of the inner layer (188) and a T-shaped tear line (182). There is no teaching or suggestion in Gilbert of a plurality of intersecting lines that define a folding sequence as presently recited.

As currently recited in claim 18, the flower wrap includes markings producing

translucent areas and transparent areas such that the folding sequence overlaps the sheet of material and the markings to align the transparent areas and translucent areas to produce a pre-determined folded shape having the selected appearance of a generally translucent inner wrap surrounded by a generally transparent outer wrap, each wrap having been wrapped by hand when the sheet is in the folded position. The product of Gilbert is a sleeve and not a pre-folded flower wrap. There is no teaching in Gilbert about folding the various layers of the product to align transparent and translucent areas of the same folded sheet together to achieve a hand-wrapped appearance in combination with the functionality of a flower sleeve. Gilbert uses multiple, independent layers that are bonded or heat sealed together. The dependent claims of the present application contain additional recitations that further define the present invention over Gilbert. For example, claims 2 and 19 recited that the sheet of material is a single layer. Clearly, Gilbert discloses four separate layers and not a single layer. With regard to claims 8, 12-13, 15, 17, these claims have been canceled from consideration with the present application, rendering the rejection with respect to these claims moot. Therefore, the present rejection has been overcome, and Applicant respectfully requests that it be withdrawn.

Claims 1-2, 4-6, 8, 11-14, and 17-18 were rejected under 35 U.S.C. 102(b) as being anticipated U.S. patent no. 4,917,240 to Roberts et al. ("Roberts") for the reason given in paragraph 4 of the Office Action. It was asserted that Roberts discloses a pre-folded flower wrap comprising a sheet of material comprising a plurality of scored intersecting lines 114, 140, 147, 182, 106, etc. defining a distinct folding sequence (*see* figure 13), overlapping portions 32 and a plurality of peaked sections 18, 50 (*see* figure 12). It was also asserted that Roberts discloses the use of glue and the appearance of a transparent outer wrap, *see* claim 19. Applicant traverses this rejection for the reasons that follow.

Roberts is directed to an expandable floral greeting card having a face card and a base formed in the shape of a hollow receptacle having the shape of a box (col. 4, lines 7-9 and 39-41). This is not the flower wrap of the present invention as currently recited in claims 1 and 18.

The present invention as currently recited in the claims and construed as one of ordinary skill in the art would understand these recitations in light of the specification of which they are a part is not anticipated by Roberts. A well established principle of patent claim interpretation states that patent claims can recite features using both structural language

and functional language. *See, In re Swinehart*, 439 F.2d 210 (CCPA 1971). In addition, the claim language is interpreted as would be understood by one of ordinary skill in the art when read in light of the specification. *Omega Engineering, Inc v. Raytek Corp.*, 334 F.3d 1314 (Fed. Cir., 2003). Therefore, one of ordinary skill in the art would consider all of the recitations of the claims of the present invention, including the preamble, to interpret the claims, because it is improper to disregard either the preamble or limitations that include functional language. *Pac-Tec, Inc. v. Amerace Corp.*, 903 F.2d 796, 901, 14 USPQ2d 1871, 1876 (Fed. Cir. 1990), cert. denied, 502 U.S. 808 (1991) (in determining whether a patent claim is invalid because anticipated by prior art, it is improper to disregard the preamble and all limitations that include "adapted to", "whereby", and "thereby", *see also, In re Venezia*, 530 F.2d 956, 189 USPQ 149 (CCPA 1976), which establishes the proposition that "functional language, in cases like the present, cannot be disregarded."). With regard to the present application, one of ordinary skill in the art would interpret the present invention as being drawn to a pre-folded flower wrap and not to an expandable floral greeting card as in Roberts. Flower wraps, flower sleeves and greeting cards have different and distinct meanings to one of ordinary skill in the art. Each one of these products is utilized differently and has different properties. This distinctiveness, for example between floral wraps and sleeves, is further illustrated and described in the written description. The flower holding portion of Roberts is in the shape of a box. A box is not associated with the hand wrapping of flowers. Therefore as an initial matter, the floral greeting card of Roberts is not the pre-folded flower wrap of the present invention.

The recitations contained in the claims of the present invention as are understood and interpreted by one of skill in the art are clearly not anticipated by Roberts. Regarding the assertion that claim 19 of Roberts discloses the appearance of a transparent outer wrap, claim 19 states that the foam retainer block is saturated with floral preservative and sealed in a thin transparent membrane wrapping. This block is cut to fit the lower interior portion of the box (col. 5, lines 11-16, and Fig. 2 at 44). This is not the transparent outer wrap of the present invention. In fact, this is not even an outer wrap for the greeting card of Roberts, but a membrane to cover a retainer block into which flowers can be inserted. The dependent claims contain additional recitations that further define the present invention over Roberts. For example, claim 6 recites that the predetermined shape is conical having an open top and open bottom. There is no disclosure in Roberts regarding any type of flower wrap or of a

flower wrap having this shape.

In addition, the greeting card disclosed in Roberts lacks the plurality of peaked sections as recited in claim 1. There is no disclosure in Roberts of a folding sequence including a first fold that overlaps the sheet of material and subsequent folds that form the overlapped sheet of material into the pre-determined shape contain multiple overlapping layers as recited in claim 1. Moreover, the expandable floral greeting card of Roberts does not disclose multiple layers that provide an appearance of multiple overlapping layers having been wrapped by hand around a floral arrangement. Hand wrapping, as understood by one of skill in the art and further described in the specification of the present invention, does not include flower sleeves or the floral greeting cards of Roberts. This recitation regarding the appearance of multiple overlapping layers is clearly understood by one of skill in the art. Acceptable functional language includes language drawn to an appearance of an object. *See, Oakley, Inc. v. Sunglass Hut Intern.*, 316 F.3d 1331(Fed. Cir., 2003)(recognizing the definiteness of the claim language “vivid colored appearance” which has a distinct and identifiable meaning to one of ordinary skill in the art in light of the specification). One of ordinary skill in the art in light of the specification would understand that an appearance of multiple overlapping layers having been wrapped by hand includes a single sheet that has been wrapped two or more times around a floral arrangement and two separate sheets that have each been wrapped around a floral arrangement. Hand wrapping is understood by one of skill in the art to apply to a distinct type of floral covering that is clearly different from flower sleeves or folded greeting cards. In fact, the entire specification is directed to the differences between flower wraps and flower sleeves. The floral greeting card as disclosed in Roberts neither discloses nor teaches the appearance of multiple overlapping layers having been wrapped by hand. Further, the greeting card of Roberts fails to disclose the functionality of a flower sleeve as recited in the claims.

Claims 8, 11-14 and 17 have been canceled from consideration with the present application, rendering the rejection with respect to these claims moot. Therefore, this rejection has been overcome, and Applicant respectfully requests that the rejection be withdrawn.

Claim 16 was rejected under 35 U.S.C. 103(a) as being unpatentable over Roberts for the reasons given in paragraph 5 of the Office Action. Applicant notes that claim 16 has been canceled from consideration with the present application, rendering the rejection moot.

Therefore, this rejection should be withdrawn.

Claims 1-6, 8-11 and 19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over, U.S. Patent no. 6,604,674 to Bowman in view of U.S. patent no. 6,484,442 to Weder for the reasons stated in paragraph 6 of the Office Action. It was asserted that Bowman discloses a wrap and method comprising a sheet of material that has intersecting lines, a folding sequence corresponding to a pre-determined shape for the wrap which comprises an appearance of being wrapped by hand. In addition, it was asserted that it would have been obvious to one of ordinary skill in the art at the time of the invention to provide Bowman with a flower wrap as taught by Weder to form a desired product that is known within the realm of one of ordinary skill in the art. Applicant traverses this rejection for the reasons that follow.

Bowman is directed to gift wrapping and provides a flat packaged, folding gift box in combination with a complementarily dimensioned sheet of gift wrap for hand wrapping the box. The wrapping sheet is pre-cut, pre-scored and is pre-taped in that tape is applied to the flat sheet, and the wrapping sheet includes selected decorative design elements printed or formed on one surface. The other surface, called the operational surface, includes printed step-by-step instructions for folding the wrapping sheet by hand around the correspondingly dimensioned box.

By contrast, the present invention, as presently recited in independent claim 1, is directed to a pre-folded flower wrap that includes a folded sheet of material that includes a plurality of scored intersecting lines defining a distinct folding sequence. The distinct folding sequence includes a first fold that overlaps the sheet of material and subsequent folds that form the overlapped sheet of material into the pre-determined folded shape that includes an overlapping portion, a plurality of peaked sections and multiple layers that provide an appearance of the multiple overlapping layers of having been wrapped by hand around a floral arrangement. In addition, the pre-determined folded shape provides the functionality of a flower sleeve to facilitate placement of the floral arrangement within the multiple layers without having to wrap the layers around the floral arrangement. Bowman is not directed to flower wrappings at all and contains no disclosure or teaching related to flower wrappings. The wrap in Bowman is specifically used to wrap boxes and each wrapping sheet in Bowman is specifically sized and arranged according to a particular box to be wrapped. In addition, the wrap in Bowman is not pre-folded as recited in the present invention and does not contain

a folded sheet of material. In fact, the wrapping sheet in Bowman is provided flat and unfolded for subsequent hand wrapping of the specifically associated box.

In addition, there is no disclosure in Bowman regarding a folding sequence that includes a first fold that overlaps the material and subsequent folds that form the overlapped sheet into a folded shape containing a plurality of overlapping layers having the appearance of being wrapped by hand and the functionality of a flower sleeve. The wrapping sheets in Bowman do not have an overlapping portion and a plurality of peaked sections that provide an appearance of the sheet of material having been wrapped by hand around a floral arrangement. The structure of the overlapping portion and peaked sections are associated with the hand-wrapped appearance. This hand-wrapped appearance, again as would be understood by one of skill in the art, relates to the type of appearance that would be achieved if the sheet of material of the present invention were wrapped around a flower arrangement free hand, for example by a florist or street vendor. Therefore, the pre-folded flower wrap in accordance with the present invention provides the unexpected benefit of combining the aesthetics of hand-wrapped flowers with the convenience of flower sleeves. Bowman is not attempting to create an appearance of hand-wrapping in a flower wrap. In fact, the wrapping sheets of Bowman are arranged to create uniformity in wrapping, producing a wrapping that has less of a hand-wrapped appearance. Therefore, one of ordinary skill in the art looking for flower wraps and methods for making flower wraps that combine hand-wrapped aesthetics with flower sleeve convenience would not look to Bowman, which is not even directed to flower wraps and actually teaches exactly the opposite type of system and product, i.e. less hand-wrapped appearance in a product that is actually wrapped by hand.

The shortcomings of Bowman are not overcome by Weder. Weder is directed to sheets of material having forming indicia for forming into flower pot or plant covers and teaches that any thickness of the sheet of material may be utilized ... as long as the sheet of material is wrappable about an object such as a flower pot or a plant contained in a growing medium (col. 4, lines 30-33). The decorative cover is created by folding, gathering and/or crimping the sheet of material as designated by the forming indicia.

By contrast, the present invention, as presently recited in claim 1 is directed to a pre-folded flower wrap that includes a sheet of material that includes a plurality of scored intersecting lines defining a distinct folding sequence that corresponds to a pre-determined folded shape as discussed above. Weder does not disclose or suggest a pre-folded flower wrap

including a plurality of scored intersecting lines as presently recited. The sheets of material in Weder lack the overlapping portion and a plurality of peaked sections that provide an appearance of the sheet of material having been wrapped by hand around a floral arrangement. There is not teaching or suggestion in Weder of a folding sequence including a first fold that overlaps the sheet of material and subsequent folds that form the overlapped sheet into a multilayered flower wrap having an appearance of the multiple layers being wrapped by hand around a floral arrangement while providing the functionality of a flower sleeve in inserting the floral arrangement into the multiple layers. As understood by one of ordinary skill in the art in light of the specification, this hand-wrapped appearance relates to the type of appearance that would be achieved if the sheet of material of the present invention were wrapped around a flower arrangement free hand, for example by a florist or street vendor. However, as recited in claim 1, the structure of the pre-determined folded shape is capable of being used like a flower sleeve to hold a floral arrangement.

Therefore, the pre-folded flower wrap in accordance with the present invention provides the unanticipated benefit of combining the aesthetics of hand-wrapped flowers with the convenience of flower sleeves. As with Bowman, Weder neither teaches nor discloses a pre-determined folded shape including an overlapping portion and a plurality of peaked sections that provide an appearance of the sheet of material having been wrapped by hand around a floral arrangement. In fact, the sheet of material is provided to be wrapped by hand around a mold or a flower pot and can also be formed without the use of a flower pot or mold. However, Weder still lacks the teaching or suggestion of the overlapping portion and plurality of peaked sections of the present invention. Neither Weder nor Bowman is attempting to create an appearance of hand-wrapping as currently recited. In fact, the sheets of Bowman are expressly hand wrapped around the object to be covered and are arranged to produce a wrapping that has less of a hand-wrapped appearance, and the express benefits of Weder are that the sheets of material can be formed without having to wrap the sheets around the object to be covered or a mold. Therefore, one of ordinary skill in the art looking for flower wraps and methods for making flower wraps that combine hand-wrapped aesthetics with flower sleeve convenience would not look to Bowman, which teaches exactly the opposite type of system and product, in combination with Weder.

Referring to dependent claim 19, this claim is dependent from claim 18, which was not covered by the present rejection. Claim 18, recites translucent and transparent markings

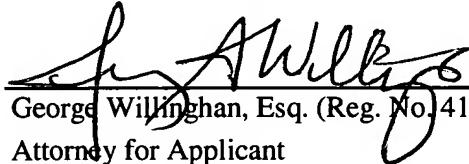
and the appearance of a generally translucent inner wrap surrounded by a generally transparent outer wrap. These recitations are clearly not contained in either Bowman or Weder. Therefore, the present invention is not rendered obvious by reference to Bowman either alone or in combination with Weder. Thus, the present rejection has been overcome, and applicant respectfully request that the rejection be withdrawn.

Claims 12-17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Weder in view of Bowman for the reasons given in paragraph 7 of the Office Action. Applicant notes that claims 12-17 have been canceled for consideration with the present invention, rendering this rejection moot. Therefore, this rejection should be withdrawn.

Applicants assert that all claims are now in condition for allowance, early notification of which is respectfully requested. A petition for a two month extension of time for submitting this amendment is enclosed along with payment of the prescribed fee. No other fees are believed due for the submission of this amendment since the total number of claims as-amended is less than 20 and the total number of independent claims is less than 3.

Respectfully submitted,

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Enclosures